

Superseded 5/12/2015

67-19a-402.5 Procedural steps to be followed by reporting employee alleging retaliatory action.

- (1) A reporting employee who desires to assert an administrative grievance of retaliatory action:
 - (a) shall submit the grievance in writing within 20 days after the day on which the retaliatory action occurs;
 - (b) is not required to comply with Section 63G-7-402 to file the grievance; and
 - (c) is subject to the provisions of Section 67-24-4.
- (2)
 - (a) When a reporting employee files a grievance with the administrator under Subsection (1), the administrator shall initially determine:
 - (i) whether the reporting employee is entitled, under this chapter and Chapter 21, Utah Protection of Public Employees Act, to bring the grievance and use the grievance procedure;
 - (ii) whether the office has authority to review the grievance;
 - (iii) whether, if the alleged grievance were found to be true, the reporting employee would be entitled to relief under Subsection 67-21-3.5(2); and
 - (iv) whether the reporting employee has been directly harmed.
 - (b) To make the determinations described in Subsection (2)(a), the administrator may:
 - (i) hold an initial hearing, where the parties may present oral arguments, written arguments, or both; or
 - (ii) conduct an administrative review of the grievance.
- (3)
 - (a) If the administrator holds an initial hearing, the administrator shall issue a written decision within 15 days after the day on which the hearing is adjourned.
 - (b) If the administrator chooses to conduct an administrative review of the grievance, the administrator shall issue the written decision within 15 days after the day on which the administrator receives the grievance.
- (4)
 - (a) If the administrator determines the office has authority to review the grievance, the administrator shall provide for an evidentiary hearing in accordance with Section 67-19a-404.
 - (b) The administrator may dismiss the grievance, without holding a hearing or taking evidence, if the administrator:
 - (i) finds that, even if the alleged grievance were found to be true, the reporting employee would not be entitled to relief under Subsection 67-21-3.5(2); and
 - (ii) provides the administrator's findings, in writing, to the reporting employee.
 - (c) The office shall comply with Chapter 21, Utah Protection of Public Employees Act, in taking action under this section.
- (5) A decision reached by the office in reviewing a retaliatory action grievance from a reporting employee may be appealed directly to the Utah Court of Appeals.
- (6)
 - (a) Except as provided in Subsection (6)(b), an appellate court may award costs and attorney fees, accrued at the appellate court level, to a prevailing employee.
 - (b) A court may not order the office to pay costs or attorney fees under this section.